IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.165 OF 2002
ALONGWITH
COMPANY APPLICATION NO.166 OF 2002
IN
JUDGE'S SUMMONS NO.461 OF 2000
IN
COMPANY PETITION NO.161 OF 2000

ALONGWITH

COMPANY APPLICATION (L) NO.835 OF 2004
IN
COMPANY APPLICATION NO.29 OF 2002
IN
JUDGE'S SUMMONS NO.461 OF 2000
IN
COMPANY PETITION NO.161 OF 2000

Co.Appln.165/02 :

Mrs.Pushpa Kripashankar Shukla ..Petitioner.

Vs.

M/s.Shukla Housing Pvt. Ltd. ..Respondent.

And

Mr.K.Anil Kumar ..Applicant.

Co.Appln.166/02 :

Mrs.Pushpa Kripashankar Shukla ..Petitioner.

Vs.

M/s.Shukla Housing Pvt. Ltd. ..Respondent.

And

Mrs.Rajalakshmi Anil

Kumar ..Applicant.

Co.Appln.(L)835/04 :

Rajendraprasad Shamraj
Pandey & Ors. ..Applicants.

Vs.

Pushpa Kripashankar Shukla
& Ors. ..Respondents.

Mr.Janardhan i/b.B.H.Vyas & Bhavana Shah for the Applicants in support.

Mr.Divekar for the Petitioner.

Mr.Pankaj Das for Respondent No.1.

Ms.K.V.Gautam, Dy. Official Liquidator present.

CORAM: S.U.KAMDAR, J.
DATED: 13TH DECEMBER, 2004

P.C. :

First two applications i.e. Company Application No.165 of 2002 and Company Application No.166 of 2002 are taken out by the Applicant inter-alia on the ground that they are bonafide purchasers of Shop No.BS-4 and BS-5 in a building constructed at Shukla Compound, R.D.Shukla Marg, Katemanivali, Kalyan (East), Thane.

2. In the present Petition, a provisional liquidator was appointed of the assets of the Respondent company which inter-alia included shop

bearing No.BS-4 and BS-5 which has been purchased by the Applicants from the Respondent Company. It seems that there has been inter-se disputes by and between the Petitioners and the Directors of the Respondent Company. The Petitioner is the wife of the Managing Director of the Respondent Company at the relevant time. The other Directors of the Respondent Company are also related to each other.

2. By the present two applications, the Applicant has sought a direction that a provisional liquidator shall be directed to hand over vacant and peaceful possession of Shop No.BS-4 and BS-5 removing his seal on the said premises.

3. The Official Liquidator is present in Court and he confirms that he is in possession of the said premises. It is the case of the Applicant that in both the Applications 165 of 2002 and 166 of 2002 an agreement had been executed by and between the Applicant and the Respondent Company. It is further case of the Applicant that the entire price in respect of the said two shop premises has been paid to the company. It has been contended that, in fact, the Applicants were put in possession of the shop premises by the company and the Official

Liquidator has taken possession of the said shops from them. He further states that even today the locks on the said shops are that of the Applicants and, therefore, the Applicants are entitled to be put in possession.

4. On 13.8.2004 the learned Single Judge of this Court has in Company Application (L) No.85 of 2002 and Company Application (L) No.86 of 2002 and Company Application (L) No.187 of 2003 and Company Application No.161 of 2000 has passed a similar order directing the Official Liquidator to hand over the possession of the various premises to the purchasers. By the said order dated 13.8.2004 the Respondent Company was further directed to deposit a sum of Rs.6,00,000/- in this Court. The said order dated 13.8.2004 permitted the Petitioner to withdraw the said amount. The Respondent Company admits the execution of the said agreements in favour of the Applicants as shop purchases and also confirms that the Company has received full purchase price and put the Applicants in possession of the said shop premises. In view of the aforesaid, I am of the opinion that the Applicants are entitled to get back possession of their respective shop premises. Accordingly, I make both the Company Applications

being Company Application No.165 of 2002 and Company Application No.166 of 2002 as absolute in terms of prayer clause (a) thereof.

5. The Respondent Company has taken out an application being Company Application (L) No.835 of 2004 which is the third application before me for haring and final disposal. The said Application is, by consent of the parties, taken up on board for final hearing. By the said Application, the Respondent Company seeks extension of time to deposit the said amount of Rs.6,00,000/-. The learned counsel appearing on behalf of the Respondent Company has produced before me in this Court two Demand Drafts, one for Rs.1,00,000/- and another for Rs.57,000/-, totalling to Rs.1,57,000/-. The said Demand Drafts are drawn on the Bank of Maharashtra and addressed to the Prothonotary and Senior Master, High Court, Mumbai. The Respondent Company is directed to deposit the said Demand Drafts by today itself. The Petitioner will be entitled to withdraw this amount which is deposited by the Respondent Company immediately. In so far as the balance amount of Rs.4,43,000/- is concerned, I pass the following order :

i) The remaining Rs.43,000/- shall be deposited by the Respondent Company on or before 17th December, 2004 and, thereafter, the remaining Rs.4,00,000/- will be deposited by the Respondent Company at the interval of period of 15 days each.

ii) Till the entire amount is paid off by the Respondent Company, the amount so deposited will be permitted to be withdrawn by the Petitioners herein.

iii) In an event any default is committed in making the payments as aforesaid, the Petition to be placed on board forthwith for final hearing.

iv) In the event the amount is paid as directed above, the Company Petition to stand dismissed and the Official Liquidator to hand over the possession of the balance of the property to Respondent Company.

v) Till and until the entire amount is paid as directed under these orders, the Official Liquidator shall continue to hold the property save and except the said two shops which are the subject matter of Company Application No.165 of 2002 and 166 of 2002. These two shops, the Official Liquidator will hand

over possession to the Applicant as directed hereinabove.

All the three Company Applications are disposed of accordingly. There shall be no order as to costs.